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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/348,618 07/06/99 LARSON

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PM82/1106

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EXAMINER
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BARTELD, A	
ART UNIT	PAPER NUMBER

3636  
DATE MAILED:

11/06/01

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
09/348,618

Applicant(s)  
Larson

Examiner  
Anthony D Barfield

Art Unit  
3636



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Aug 22, 2001.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 27-88 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 27-30, 38, 44-76, 78, and 80-88 is/are rejected.
- 7) ☒ Claim(s) 31-37, 39-43, 77, and 79 is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some\* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
- 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

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## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 53,63-74,76, and 78 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase "said cam lobes" lacks proper antecedent basis in claim 53. In claim 63, the phrase "said second actuation lever can rotate and a second actuation lever" renders the claim unclear and confusing.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

4. Claims 27-30,38,52,54, and 57-62, as best understood are rejected under 35 U.S.C. 102(e) as being anticipated by Stumpf. Stumpf discloses the use of height adjustable supporting structure (10) comprising a height adjustable column (14), which is inherently connected to a floor contacting base. An actuation lever (116) having a cam lobe (26) thereon is

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disposed on the column and which extends through openings (22,32) of a first and second upright opposing surfaces (18). The openings define a fulcrum (or bearing) surface. Stumpf further shows the height adjustable column comprising the use of top (18) and bottom tube (14) in telescoping relationship (see Figure 5) and a coaxial cable (146). The bottom tube indirectly includes the upright surfaces (via the top tube mounted thereon).

*Claim Rejections - 35 USC § 103*

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 27-30,38,44-62,75, and 80-88 as best understood are rejected under 35 U.S.C. 103(a) as being unpatentable over Wirges et al in view of Dony. Wirges shows the use of a height adjustable supporting structure comprising a height adjustable column comprising a locking telescoping mechanism. The telescoping spring mechanism includes a cylinder section (8) disposed within a stand tube (1) and a piston section (9). Wirges et al. shows all of the teachings of the claimed invention except the use of a first and second fulcrum surfaces having an actuation lever disposed therebetween. Dony teaches the use of a height adjustable column having first and second fulcrum or bearing surfaces (4,5) with an actuation lever (2) disposed therebetween. Dony shows the bearing surfaces (4,5) opposite the actuation button and the use of cam lobes

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(24,26). Dony further shows one of the cam lobe (26) formed by a removal of a portion of the outer diameter of the lever and the use of a coaxial cable (17,19). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the height adjustable column of Wirges et al., with the fulcrum or bearing surfaces and actuator lever of Dony, in order to eliminate any dislodgement of the lever.

***Allowable Subject Matter***

7. Claims 31-37,39-43,77,79 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. Claims 63-74,76, and 78 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2<sup>nd</sup> paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

9. Applicant's arguments filed 8/17/2001 have been fully considered but they are not persuasive. In response to applicant's argument that Stumpf fails to show to a height adjustment mechanism which enables more than one fulcrum. The examiner is of the opinion that due to the use of applicant's alternative language in claim 27 and the recitation of only one bearing surface in claim 52, that Stumpf in fact teaches the claimed invention.

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10. Applicant's arguments with respect to claims 27-88 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

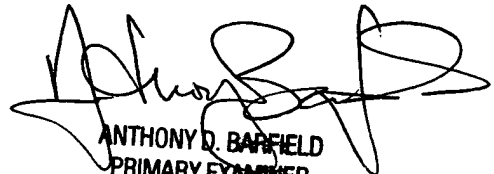
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony D. Barfield whose telephone number is (703) 308-2158.

adb

November 4, 2001



ANTHONY D. BARFIELD  
PRIMARY EXAMINER